

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #1	CCRB Case #: 201600967	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/04/2016 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 8/4/2017	EO SOL 8/4/2017	
Date/Time CV Reported Fri, 02/05/2016 1:42 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/05/2016 1:42 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. DT3 Javier Velez	6330	935924	GANG Q

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Matthew Maxwell	2770	948168	GANG Q
2. DT3 Kimberly Daly	02566	932512	GANG Q
3. DT3 Jiyong Sim	4437	946254	GANG Q
4. DT3 Christopher Troisi	4558	939606	GANG Q
5. DT3 Jared Rothschild	4298	931105	GANG Q

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Javier Velez	Abuse: Detective Javier Velez entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
D.DT3 Javier Velez	Abuse: Detective Javier Velez failed to show the search warrant to § 87(2)(b)	§ 87(2)(b)

Case Summary

On February 4, 2016, at approximately 6:00 a.m., Det. Javier Velez and other members of Queens Gang Squad executed a search warrant at the residence of § 87(2)(b) located at § 87(2)(b) in Queens (**Allegation A**). § 87(2)(b) was in her bedroom when Det. Matthew Maxwell and two other officers entered. An officer allegedly told § 87(2)(b) to “get the fuck down” (**Allegation B**). The officers then entered the bedroom and as she was naked, § 87(2)(b) stated that she wanted to get a blanket, at which point an officer allegedly replied, “No. Get the fuck down on the ground” (**also Allegation B**). An officer then grabbed § 87(2)(b) by her arm and allegedly stated, “Get the fuck down” (**also Allegation B**). At some point an officer reportedly pulled § 87(2)(b) to the ground and allegedly told her to put her legs “straight down on the fucking ground” (**Allegation C, also allegation B**).

Det. Kimberly Daly, also of Queens Gang Squad, entered the bedroom, helped § 87(2)(b) get dressed, and then escorted her to the living room. As § 87(2)(b) sat on the living room couch, Det. Javier Velez searched the apartment. She was arrested for § 87(2)(b).

While at the 114th Precinct stationhouse, § 87(2)(b) reportedly asked Det. Velez to see a copy of the search warrant. § 87(2)(b) was allegedly shown the search warrant for only a brief moment, and she was unable to read it (**Allegation D**). § 87(2)(b) was released with a Desk Appearance Ticket.

Mediation, Civil and Criminal Histories

§ 87(2)(b) declined the option to mediate this complaint § 87(2)(b).

A Notice of Claim Inquiry was returned with negative results from the Office of the New York City Comptroller on April 19, 2016. [01 Board Review].

§ 87(2)(b), § 87(2)(c)

Civilian and Officer CCRB Histories

This is the first CCRB complaint featuring § 87(2)(b) [03 Board Review].

This is the 11th CCRB complaint filed against Det. Velez in his 11 year tenure. In 2009, a physical force allegation was substantiated against him. He pled guilty and was fined five vacation days. Det. Velez was previously the subject of an entry allegation in 2007. The allegation was closed as unsubstantiated.

Findings and Recommendations

Allegations not pleaded

Abuse of Authority: Officers drew their guns.

Abuse of Authority: An officer damaged § 87(2)(b)'s property.

§ 87(2)(b) stated that the officers who entered her bedroom had their guns drawn. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) also alleged that the officers damaged and removed a cabinet door from her kitchen. However, she did not witness this and did not find the alleged damage until she returned home from the stationhouse [04 Board Review]. § 87(2)(g)

Allegation A – Abuse of Authority: Detective Javier Velez entered and searched § 87(2)(b) in Queens.

It is undisputed that Det. Velez and other officers from the Queens North Gang Squad entered and searched § 87(2)(b)'s apartment. On February 17, 2016, the Department Advocate's Office revealed that search warrant #Q§ 87(2)(b) was issued on § 87(2)(b), for the search of § 87(2)(b) in Queens. The warrant was signed by the Honorable § 87(2)(b). It was executed on February 4, 2016 [05 Board Review].

§ 87(2)(g)

Allegation B – Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation C – Force: An officer used physical force against § 87(2)(b)

§ 87(2)(b) testified that she was in her bedroom when Det. Maxwell, who she knew from a previous incident, and two other officers entered her living room. One of the officers allegedly said, "Get the fuck down," but § 87(2)(b) did not see which officer said this because it was dark in the apartment and she could not see around the corner. § 87(2)(b) also stated that she was not able to make a determination based on voice. When the three officers entered her bedroom, § 87(2)(b) told them that she would not get down because she was naked, and she asked if she could get a blanket to cover herself. An officer, who § 87(2)(b) could not identify due to the darkness, allegedly responded, "No, get the fuck down on the ground."

According to § 87(2)(b) an officer then grabbed § 87(2)(b) by her arm, told her to get the fuck down, and pulled her to the ground. § 87(2)(b) landed on her buttocks and attempted to grab a blanket to cover herself, at which point an officer reportedly told her not to grab anything, to get her ass on the ground, and to put her legs straight down. When § 87(2)(b) asked if she could get something to cover herself, an officer allegedly responded no and told her to put her legs straight down on the fucking ground. § 87(2)(b) stated that she did not see which officer took the abovementioned actions or used discourteous language toward her because the light remained off and the officers had their faces behind their shields. After § 87(2)(b) was handcuffed, a female officer, identified by the investigation as Det. Kimberly Daly, entered § 87(2)(b)'s bedroom. Det. Daly turned on the light, and § 87(2)(b) was able to see the officers inside. However, this still offered no insight as to which officer allegedly spoke discourteously to and used force against her [04 Board Review].

In her brief statement to IAB, § 87(2)(b) revealed that an officer cursed at her when he told her to get down. However, she made no mention of an officer using force against her. She made no

statements about being on the ground or how she may have come to be there. She offered no descriptions of the subject officers [13 Board Review].

Det. Maxwell and Det. Jiyong Sim, both testified that they were the first two officers to enter § 87(2)(b)'s bedroom. They also consistently testified that they were the only two officers in the bedroom prior to the arrival of Det. Daly [06-07 Board Review].

Det. Maxwell testified that he entered the bedroom and told § 87(2)(b) to show her hands. According to Det. Maxwell, § 87(2)(b) complied and slowly lowered herself to the floor. As she did so, Det. Maxwell reportedly stood close to her with his arms extended in order to guide her, though he denied making any physical contact with her. He did not remember if § 87(2)(b) attempted to grab a blanket but stated that there were no issues gaining § 87(2)(b)'s compliance. Det. Maxwell denied telling § 87(2)(b) to get the fuck down, to get the fuck down on the ground, to get her ass on the ground, or to put her legs straight down on the fucking ground. He also denied hearing any other officer make those statements. Det. Maxwell denied that he or any other officer grabbed § 87(2)(b)'s arm or pulled her to the floor. He stated that no profanity was used toward § 87(2)(b) and that no officer used force against her [06 Board Review].

§ 87(2)(g) Det. Sim stated that he entered § 87(2)(b)'s bedroom and rapidly stated, "Police. Get on the ground," twice. He made this statement twice rapidly as per his training, not because of any issue concerning § 87(2)(b)'s compliance. He described that § 87(2)(b) complied by slowly lowering herself from the bed to the floor. Although Det. Sim did not remember § 87(2)(b) complaining about being naked, he stated that she grabbed a blanket to cover herself. However, he testified that neither he nor Det. Maxwell took issue with this or told her not to grab the blanket. Det. Sim denied telling or hearing any other officer tell § 87(2)(b) to get the fuck down, to get the fuck down on the ground, to get her ass on the ground, or to put her legs straight down on the fucking ground. He also denied using any profanity toward § 87(2)(b) or hearing any officer do so. Det. Sim reported that he did not grab § 87(2)(b) and pull her to the ground as he was holding his gun and shield, making it physically impossible for him to have executed the aforementioned action. He denied seeing Det. Maxwell or any other officer grab § 87(2)(b)'s arm and pull her to the ground. To Det. Sim's knowledge, no force was used against § 87(2)(b) during the incident [07 Board Review].

Det. Daly stated that she was the last officer to enter the apartment, and that her presence was requested by other officers because they had a female suspect in custody. However, Det. Daly denied remembering which officers made this request or which officers, if any, were in § 87(2)(b)'s bedroom when she entered it. Det. Daly denied hearing any sort of commotion or argument prior to entering the bedroom. Specifically, she denied hearing any officer use the discourteous language noted above, and she did observe or learn that an officer had pulled § 87(2)(b) to the ground. According to Det. Daly, § 87(2)(b) complained of neither force nor discourteous language used by officers [08 Board Review].

Det. Velez testified that he observed Det. Daly inside the bedroom when he entered it. Det. Velez did not know which officers had been in the bedroom before Det. Daly, but there were no other

officers inside at the time he entered. He denied hearing any officer make the above mentioned statements to § 87(2)(b) and to his knowledge there were no issues in gaining § 87(2)(b)'s compliance. Det. Velez stated that he did not learn that any officer had pulled § 87(2)(b) to the floor. According to Det. Velez, § 87(2)(b) appeared irate but did not complain that an officer had spoken discourteously to her or had used force against her [09 Board Review].

Det. Jared Rothschild was assigned to breach the door as per the Pre-Execution Tactical Plan [12 Board Review]. Like Det. Daly, he also claimed to be the last officer to enter the apartment. He denied entering § 87(2)(b)'s bedroom, hearing any argument or commotion emanating from it, or learning that officers experienced any difficulties handcuffing § 87(2)(b). Det. Rothschild denied hearing any officer use the discourteous language noted above toward § 87(2)(b) and he did not learn that any officer had pulled § 87(2)(b) to the ground by her arm. Det. Rothschild denied that § 87(2)(b) complained that any officer had spoken discourteously toward her or had used force against her [10 Board Review].

Det. Christopher Troisi, who was assigned to “Cuff & Toss” as per the Pre-Execution Tactical Plan, claimed that, aside from the lieutenant and captain supervising the entry, he was the last officer to enter the apartment. Like Det. Rothschild, he denied entering the bedroom or hearing anything from inside it to suggest that the officers had issues gaining § 87(2)(b)'s compliance. Det. Troisi denied hearing any officer use profanity toward § 87(2)(b) and he did not witness any officer use force against her [11 Board Review].

§ 87(2)(b) admitted that she was unable to determine which officer made the statements noted above or who pulled her to the ground. All of the officers interviewed denied speaking discourteously or hearing any officer speak discourteously toward § 87(2)(b). Similarly, the officers unanimously denied using or seeing force used against her. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation D – Abuse of Authority: Detective Javier Velez failed to show the search warrant to § 87(2)(b)

§ 87(2)(b) testified that she was in the cell area of the 114th Precinct when she asked an Asian male officer to see a copy of the search warrant. According to § 87(2)(b) this officer told her that she had to sign off on the search warrant because people often claim that they are not allowed to view warrants. The officer then reportedly showed her the warrant, which was in a clear evidence bag, for about two seconds. § 87(2)(b) acknowledged that she signed the warrant form but denied that she was ever actually allowed to read it. § 87(2)(b) also revealed that no other officers or civilians witnessed this interaction [04 Board Review].

In her brief statement to IAB, § 87(2)(b) stated that she asked to see the warrant, at which point an officer responded, “We wouldn’t come here if we didn’t have a search warrant.” § 87(2)(b) reported that she did not see the warrant [13 Board Review].

Patrol Guide procedure 212-105, subsection 10b, states: "The member of the service executing the search warrant shall, when able to do so safely, show a copy of the search warrant to any of the occupants of the premises."

Det. Velez acknowledged that he interacted with § 87(2)(b) at the 114th Precinct stationhouse. He denied that § 87(2)(b) asked to see a copy of the search warrant but stated that he showed it to her and had her sign it as a matter of procedure. According to Det. Velez, § 87(2)(b) did not complain that she was unable to read the information on the warrant, but she complained that the officers had "hit her door" previously and stated that she planned to get the officers back [09 Board Review].

Consistent with § 87(2)(b)'s statement, all witness officers interviewed testified that they were not present when § 87(2)(b) signed the warrant. No officer testified to hearing § 87(2)(b) complain that she did not have ample time to review the warrant [06-08, 10-11 Board Review].

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Squad: 1

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date